HON'BLE SRI JUSTICE R.SUBHASH REDDY

WRIT PETITION NO : 25461 of 2007

Dated 3rd December, 2007

Between
Mohd. Abdur Rauf Ghazi

…Petitioner

and

The Commissioner for Proh. & Excise,
Govt. of AP, Hyderabad, and, ors

…Respondents.

THE HON'BLE MR JUSTICE R.SUBHASH REDDY

WRIT PETITION No.25461 of 2007

ORDER:

In this Writ Petition, the petitioner seeks directions to declare the action of respondents 1 to 5 in proposing to grant licence to run Bar and Restaurant/Toddy shop/Wine shop at D.No.11-1-1206 of Komatikunta, Afzalsagar, Hyderabad, as arbitrary and illegal.

In the affidavit filed in support of the Writ Petition, it is stated that in Komatikunta of Afzalsagar in Hyderabad, there are several places of worship, educational institutions, and hospitals. It is the case of the petitioner that the said area is predominantly a residential area, and, hence no licence can be granted under the Andhra Pradesh Excise Act, 1968 to run Bar and Restaurant or any other retail liquor shop in the premises covered by D.No.11-1-1206 or any other premises nearby.

Learned counsel for the petitioner places reliance on a judgment of this court in W.P.No.11513 of 2005, which was earlier filed by one

Sri Ashok and which was dismissed as infructuous.

On the other hand, on instructions, it is submitted by the learned Government Pleader appearing for the respondents that no application is pending for grant of licence in the premises bearing No.11-1-1206 of Komatikunta, but, however, an application is pending consideration for grant of licence in premises bearing No.11-1-1207/A.

Issuance of licence to run a Bar and Restaurant or to vend liquor in retail is governed by statutory Rules, i.e. The Andhra Pradesh Excise (Grant of Licence of Selling by Bar and Conditions of Licence) Rules, 2005, framed under Section 72 read with Sections 17, 28 and 29 of the Andhra Pradesh Excise Act, 1968. There are restrictions under Rule 6 of the Rules for grant of licence. There is prohibition for grant of licence within a distance of 100 meters from educational institutions, places of public worship such as temples registered by the Endowments Department, Mosques registered under the Wakf Act, Churches and Hospitals. There is also a restriction that no licence shall be granted within 500 meters of a predominantly residential area. However, licence can be granted if the proposed premises is located at a main road used for shopping purposes. Once an application for licence is made, it is for the licencing authority to consider these aspects before issuing licence. But, even before such consideration by the competent licencing authority as per the Rules, petitioner cannot seek directions by way of Mandamus, not to grant any licence by pointing out that there are temples, educational institutions, etc., in the area of Komatikunta. No Mandamus lies in such a situation. Even under the provisions of the Andhra Pradesh Excise Act, 1968 there are sufficient safeguards by way of appeal and revision, if any licence is issued in violation of the Rules. Earlier, writ petition, which was filed by one Sri Ashok, on which learned counsel for the petitioner has placed reliance, was dismissed as infructuous.

As much as it is stated that no application is pending for grant of

licence with regard to the premises bearing No.11-1-1206, as alleged by the petitioner, and in the absence of any such applicant being made party respondent before this court, I do not find any valid ground to admit this writ petition to consider for grant of relief. If the petitioner is having any objections for grant of licence in the premises bearing No.11-1-1206, it is open for him to file his objections for grant of licence, but, however, in view of his vague allegations, no direction can be issued by way of Mandamus, at this stage.

The Writ Petition is devoid of merits and is accordingly dismissed at the admission stage. No order as to costs.

JUSTICE R. SUBHASH REDDY

DATE: 3-12-2007
CC by tomorrow
(BO) Msnr/MRR.